

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO,

Plaintiff,

- against -

VERIZON NEW YORK, INC. TELESECTOR RESOURCES
GROUP, INC., EMPIRE CITY SUBWAY COMPANY
(LIMITED), VERIZON AVENUE, INC., VERIZON
ADVANCED DATA INC., AND VERIZON CORPORATE
SERVICES CORP.,

Defendants.

Plaintiff Communications Workers of America (“CWA”) submits this statement of material facts as to which there is no genuine issue to be tried:

1. CWA and Verizon New York, Inc., Telesector Resources Group, Inc., Empire City Subway Company (Limited), Verizon Avenue, Inc., and Verizon Corporate Services Corp. (collectively, “Verizon”) are parties to the collective bargaining agreement, effective August 3, 2003 to August 2, 2008, covering employees represented by CWA in the Plant bargaining unit throughout the State of New York (“Plant Agreement”). (Trainer Decl., Exhibit B.)

2. The parties' agreement to arbitrate is contained in Article 12 of the Plant Agreement. (Trainor Decl., Exhibit B.)

3. The provisions of the Memorandum of Understanding, signed by the parties on September 4, 2003, are considered provisions of the Plant Agreement. (Trainor Decl. ¶ 7.)

4. On November 5, 2006, Verizon implemented a new absence control plan (“mACP”). (Semel Decl. Exhibit D ¶ 14; Semel Decl. Exhibit E ¶ 14; Trainor Decl. 16.)

5. Employees in the plant bargaining unit, represented by CWA, have been disciplined, up to and including discharge, under the mACP. These employees would have been treated differently under the ACP. (Trainor Decl. ¶ 17.)

6. On or about November 30, 2006, CWA's affiliate local, Local 1109, filed a grievance objecting to the implementation of the mACP. (Semel Decl. Exhibit E ¶ 15; Lawson Decl. ¶ 5.)

7. The grievance was processed through the three steps of the grievance procedure set forth in Article 11 of the Plant Agreement. (Semel Decl. Exhibit E ¶ 16, 17; Lawson Decl. ¶ 6, 7; Finnigan Decl. ¶ 4, 5.)

8. CWA requested arbitration of the grievance regarding the mACP. (Semel Decl. ¶ 5.)

9. On October 22, 2007, Verizon, through counsel, refused to proceed to arbitration with CWA's grievance. (Semel Decl. Exhibit E ¶ 21; Semel Decl. ¶ 10.)

10. The instant Complaint was filed on January 18, 2008. (Semel Decl. ¶ 12, Exhibit D.)

Dated: New York, New York
May 5, 2008

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